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SUBJECT: KURDS DISMISS USG CONCERNS ABOUT KURDISH
CONSTITUTION

Classified By: Acting Political Counselor Peter Vrooman for reason 1.4
(b).

¶1. (C) SUMMARY: The Embassy and RRT Erbil have met with Kurdish COR members and Kurdistan Regional Government (KRG) officials to express serious concern about politically inflammatory provisions in the recently passed Kurdish Constitution and the KRG's apparent rush to submit it to a public referendum on July 25. Most seem oblivious to the growing, critical reaction from Iraqi parties (septel), and appear unconcerned with the political or legal ramifications of the new Kurdish Constitution. END SUMMARY.

¶2. (C) We have spoken to Feriad Rowanduzi, a senior Kurdish member of the Iraqi Council of Representatives (COR); Adnan Mufti, Speaker of the Iraqi Kurdistan Parliament (IKP); Dr. Fuad Hussein, Chief of Staff to KRG President Barzani; Iraqi COR member Fuad Massum; Falah Mustafa, PUK Politburo member; Aram Yarwessi, Political Advisor to GOI President Talabani; and GOI Deputy Prime Minister Barham Salih.

¶3. (C) In our meetings, we flagged concerns about provisions in the Kurdish Constitution that could contradict the Iraqi Constitution, or, at the very least, make Arab-Kurd negotiations on disputed territories, hydrocarbons, and other federal issues in Iraq more contentious. We said:

- The Kurdish Constitution strikes at the heart of many unresolved political issues.
- Article 2 of the Constitution defines the KRG as including territories from Ninewa, Kirkuk, and Diyala that are disputed.
- This prejudices the result of the Iraqi Constitution's Article 140 process, and could undermine Iraqi support for resolving the Disputed Internal Boundaries (DIBs) issue.
- The Constitution empowers KRG authorities to manage hydrocarbon exploration, production, and other related activities.
- This could be interpreted to mean that the KRG will export and sell its own oil and gas, which may conflict with the provisions of the Iraqi Constitution and could complicate negotiations over the Hydrocarbons Framework Law of 2007.

¶4. (C) Kurdish leaders almost uniformly responded to our points with the following party line:

- We do not believe the Kurdish Constitution contradicts the Iraqi Constitution.
- The media's spin on the DIBs issue is facile: Article 2 (a) outlines the "geographical and historical" region of Kurdistan, but the actual political boundaries of the KRG will be determined by the implementation of the Article 140 process of the Iraqi Constitution, as specified in Article 2 (b) of the Kurdish Constitution.
- Any contradictions that do exist can be changed later, if necessary, should the Iraqi Supreme Court so decide.
- PM Maliki has not spoken out publicly against the Kurdish Constitution; those who have are "the usual suspects" (i.e., politicians with an anti-Kurd agenda).

(NOTE: Iraqi Chief Justice Medhat told Embassy Rule of Law team that conflicts between the KRG and GOI Constitutions could be settled in the Iraqi Supreme Court. We would not welcome this. END NOTE).

15. (C) The Kurds are sensitive to criticism of the Kurdish Constitution. Hussein took umbrage at an e-mail he received from UNAMI's Acting Special Representative of the Secretary General (A/SRSG) Gilmour that objected to the Constitution's "annexing of Kirkuk." He stated that "the UN is no longer serving as a neutral adviser, they are taking sides, they are not helpful." In an interview with the Kurdish Payanmir News Agency, Kurdish COR member Mahmoud Othman railed against Arabs who have complained about the territorial claims in the KRG Constitution, likening the Kurds to Palestinians. QKRG Constitution, likening the Kurds to Palestinians.

16. (C) COMMENT: From our initial soundings, there appears to be a political imperative from the highest levels of the KDP to pass this Constitution on July 25. Da'wa spokesman Haidar Al Abadi explained the PM's silence by saying that Da'wa and Maliki have purposefully refrained from speaking publicly on the issue, but told us the PM is very concerned. Post will report on emerging Iraqi political opposition to the Kurdish Constitution septel. END COMMENT.
HILL